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**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

Bel Power Solutions Inc.,

Case No. 5:23-mc-80024

Movant

# **BEL POWER SOLUTIONS INC.'S MOTION TO COMPEL COMPLIANCE WITH THIRD-PARTY SUBPOENA**

NVIDIA Corporation

V.

## SAN JOSE DIVISION

Third Party

### Third Party.

1    **I. INTRODUCTION**

2                Movant Bel Power Solutions Inc. (“Bel Power”) respectfully seeks an order compelling  
 3 Third Party NVIDIA Corporation (“NVIDIA”) to produce documents, information, and deposition  
 4 testimony in response to a subpoena directed to NVIDIA in an action pending in the Western  
 5 District of Texas styled as *Bel Power Solutions Inc. v. Monolithic Power Systems, Inc.*, No. 6:21-  
 6 cv-655-ADA (the “Texas Litigation”).

7                The Texas Litigation is a patent infringement action concerning six U.S. patents owned by  
 8 Bel Power (the “Patents-in-Suit”). The inventions claimed in the Patents-in-Suit are directed toward  
 9 improving distributed power control in integrated circuits. The Patents-in-Suit are universally  
 10 respected, and semiconductor manufacturers have recognized the strength of the Patents-in-Suit  
 11 and taken licenses.

12              At the heart of the Texas Litigation are Bel Power’s allegations that Defendant Monolithic  
 13 Power Systems, Inc. (“MPS”) induces and/or contributes to the direct infringement by its  
 14 customers. MPS designs, manufactures, and supplies power module products, and works with  
 15 manufacturers, known as “end customers,” in the United States to incorporate MPS power module  
 16 products into end-customer products that are sold, offered for sale, and/or imported into the United  
 17 States. NVIDIA is one such end customer of MPS and sells products in the United States that  
 18 incorporate MPS power module products. Information related to NVIDIA’s purchase of MPS  
 19 power module products, their incorporation into NVIDIA products, and importation of those  
 20 NVIDIA products into the United States is central to Bel Power’s indirect infringement claims.

21              Bel Power has sought as much of this information as possible from MPS, but MPS has  
 22 refused to provide relevant information regarding certain end customers such as NVIDIA. After  
 23 seeking court intervention, the court in the Texas Litigation instructed Bel Power to obtain such  
 24 information from third parties. Accordingly, on November 16, 2022, Bel Power served NVIDIA  
 25 with a subpoena seeking specific documents and deposition testimony relating to such information  
 26 (the “Subpoena”). (Ex. A.) Counsel for Bel Power and Nvidia met and conferred about the subpoena  
 27 on December 2, 2022. Since then, Bel Power, in order to accommodate NVIDIA, has considerably  
 28 narrowed its requests and has attempted to work with NVIDIA in an effort to obtain its compliance

1 with the Subpoena. Such attempts have been to no avail. To date, NVIDIA has promised but  
 2 produced no documents and has failed to make any corporate witness available for deposition  
 3 testimony. NVIDIA's discovery failures have therefore required the filing of this Motion to Compel  
 4 its compliance with the third-party subpoena.

## 5 **II. FACTUAL BACKGROUND**

### 6       **A. The Texas Litigation**

7       Bel Power's Complaint alleges that MPS has committed acts of direct, induced, and  
 8 contributory infringement against the six Patents-in-Suit: U.S. Patent Nos. 6,936,999, 6,949,916,  
 9 7,000,125, 7,049,798, 7,080,265, and 7,456,617. (Ex. B, Compl.)

10      The Patents-in-Suit are directed to improving distributed power control in integrated  
 11 circuits. (*Id.* at ¶ 31.) The substantial technological improvements embodied by the claims of the  
 12 Patents-in-Suit have been well recognized and subject to substantial industry praise and extensive  
 13 licensing. (*Id.* at ¶¶ 32, 33.) Certain claims of the Patents-in-Suit have been successfully litigated  
 14 such that they were found infringed and valid by a jury, with that holding affirmed by the United  
 15 States Court of Appeals for the Federal Circuit. (*Id.* at ¶ 34; *Power-One Inc. v. Artesyn*  
 16 *Technologies, Inc.*, 599 F.3d 1343 (Fed. Cir. 2010).)

17      MPS designs, tests, and manufactures power module products that infringe the claims of the  
 18 Patents-in-Suit (collectively, the "Infringing Products"). (Ex. B, Compl. at ¶¶ 10, 11.) The  
 19 Infringing Products are used in integrated circuit boards—the electronics that power video game  
 20 consoles, laptops, computer graphics cards, networking equipment, and more. (*Id.* at ¶¶ 12, 30.)

21      In order to sell its products, MPS works with end customers, like NVIDIA, to design one or  
 22 more of the Infringing Products into the end customer's devices. MPS hires U.S. engineers and uses  
 23 its U.S.-based sales office to specifically target U.S.-based end customers, including NVIDIA.  
 24 Moreover, MPS seeks "design wins"—decisions made by end customers to incorporate MPS  
 25 products into end customer devices—in order to drive revenue through sales of the incorporated  
 26 MPS products to end customers. (*See, e.g.*, Ex. C, MPS 2021 10-K SEC Report, at 32.)

27      Since May 2022, Bel Power has sought the identity of the MPS end customers who are  
 28 located in the United States and from whom MPS has sought and obtained "design wins" for the

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1 Infringing Products. MPS has refused to provide this discovery under the guise that it lacks  
 2 knowledge of whether a particular end customer does, in fact, incorporate an MPS product, despite  
 3 MPS having achieved a “design win” with respect to that end customer. As a result, the court in the  
 4 Texas Litigation has instructed Bel Power to seek this information from the third party end  
 5 customers that incorporate the infringing MPS products into devices bound for the United States.  
 6 (Ex. D, Texas Litigation Dkt. No. 63, at 5 (“[An MPS] third-party customer may import the product  
 7 into the United States. This act of importation may give rise to damages. Plaintiff may seek  
 8 discovery from these third parties who import these products.”).)

9       In October 2022, MPS was compelled to produce internal e-mail correspondence that  
 10 revealed the identities of certain MPS end customers located in the United States for which a  
 11 “design win” was sought and obtained. (Ex. E, Texas Litigation Dkt. No. 68, at 5–6.) Based on  
 12 those emails, Bel Power identified eighteen third parties that may have information relevant to  
 13 MPS’s efforts to encourage the sale, offer for sale, and/or importation in the United States of end  
 14 customer products containing the Infringing Products. Bel Power served those entities with Rule  
 15 45 subpoenas in mid-November 2022. NVIDIA is one of the third party end customers that MPS  
 16 identified through discovery in the Texas Litigation.

## 17           B.     **NVIDIA and MPS**

18       NVIDIA is a multinational technology company with headquarters located in this District  
 19 at 2788 San Tomas Expressway Santa Clara, CA. NVIDIA sells numerous products and services in  
 20 the computing industry, among others.

21       Importantly, NVIDIA is an end customer of MPS. As such, NVIDIA incorporates MPS  
 22 Infringing Products into NVIDIA products that are sold, offered for sale, and/or imported into the  
 23 United States. For example, MPS marketing materials tout the incorporation of several MPS  
 24 products into NVIDIA’s RTX 3080 Power System used for graphics processing in computers. (*See*  
 25 [https://www.monolithicpower.com/en/support/videos/tear-down-of-nvidia-gtx-3080-power-](https://www.monolithicpower.com/en/support/videos/tear-down-of-nvidia-gtx-3080-power-system.html)  
 26 system.html, last accessed January 22, 2023.) While sales of the RTX 3080 are unknown to Bel  
 27 Power due to the lack of NVIDIA’s response to the Subpoena, the RTX 3080 sold out within  
 28

1 seconds on the day of its release in the United States. (See, e.g.,  
 2 <https://www.tomshardware.com/news/rtx-3080-sold-out>, last accessed January 22, 2023.)

3           **C. Bel Power's Diligent Efforts to Obtain Relevant Discovery From NVIDIA**

4           On November 22, 2022, based on internal e-mail correspondence produced by MPS in  
 5 October and November, and in view of the Texas Litigation court's directive to obtain further  
 6 discovery relevant to MPS's infringement from its end customers, Bel Power served the Subpoena  
 7 on NVIDIA seeking the production of documents and deposition testimony. (Ex. A.) The Subpoena  
 8 is narrowly tailored and Bel Power primarily seeks information related to specific MPS products  
 9 that Bel Power contends are MPS Infringing Products. (Ex. A at 11–14.)

10           On November 29, 2022, NVIDIA served boilerplate objections to the Subpoena, indicating  
 11 that it "meet and confer with Bel Power in order to narrow the scope" of the Subpoena requests and  
 12 topics. (Ex. F.) In addition to numerous emails, and in order to minimize the burden on NVIDIA,  
 13 counsel for Bel Power met and conferred with NVIDIA on December 2, 2022, with Bel Power  
 14 explaining the categories of documents it sought and why these were relevant to the Texas  
 15 Litigation. Bel Power further identified specific Infringing Products that met the definition of "MPS  
 16 Accused Products" in the Subpoena in an attempt to be cooperative and in order to obtain  
 17 compliance with the Subpoena and minimize burden on the parties. (Ex. G, *inter alia*, Email A.  
 18 Pettes to R. Chang, dated Dec. 2, 2022, attempting to facilitate discovery.)

19           NVIDIA's objections and subsequent correspondence focused on relevance and attempted  
 20 to ward off responsive discovery by splitting hairs regarding its products numbers. Bel Power  
 21 provided to NVIDIA its Final Infringement Contentions and 132 claim charts in one of several  
 22 further attempts to resolve the dispute and obtain compliance. (Ex. H.) Bel Power identified a video  
 23 teardown of NVIDIA's RTX 3080 product that includes MPS Infringing Products (*see*  
 24 [https://www.monolithicpower.com/en/support/videos/tear-down-of-nvidia-gtx-3080-power-](https://www.monolithicpower.com/en/support/videos/tear-down-of-nvidia-gtx-3080-power-system.html)  
 25 *system.html*), and further narrowed the information sought. Specifically, on January 9, 2023, as "a  
 26 final effort to resolve this subpoena without seeking relief from the Court," Bel Power narrowed  
 27 the scope of information and documentation it was seeking to the following:

28

- (i) the quantity of [MPS Infringing Products] [from a narrowed list] that Nvidia purchased since 2015, including the price paid for each product purchased;
  - (ii) an identification of the NVIDIA products that incorporate the [MPS Infringing Products] purchased by NVIDIA since 2015; and
  - (iii) the number of NVIDIA products identified in (ii) that were sold and/or imported into the United States since 2015.

The specific MPS Infringing Products at issue in the subpoena and presented to NVIDIA in its Bel Power's Final Infringement Contentions included the following:

mEZDPD1620A\AS, mEZDPD4506A\AS, MP2884A, MP2886A, MP2888A, MP2935, MP2953B, MP2965, MP2981, MP5417, MP5413, MP5416, MP5470, MP8796B, MP8843, MP8845, MP8854, MP8861, MP8869, MPM3695, MPM54304, MPM82504, MPQ8645P, MPQ8875A, MPQ8880, MPQ8883, and MPQ8886.

(Ex. A; Ex. H.) Bel Power also agreed to limit its request for a deposition not to exceed three hours.

(Ex. G.)

Despite exhausting efforts to narrow the scope of information sought and, in turn, lessen any burden on NVIDIA, NVIDIA has produced nothing. On January 20, 2023, NVIDIA, without committing to even produce responsive information (much less schedule a deposition) regarding the products that Bel Power has specifically identified (which is narrower than what is sought by the Subpoena), stalled again on responding as required by the Subpoena. On January 26 and 27, NVIDIA promised to provide information on specific MPS parts numbers no later than 6:00 pm PT on January 27, 2023. (Ex. G.) NVIDIA failed to do so.

Particularly in light of fact discovery in the Texas Litigation closing on January 27, 2023, NVIDIA's non-responsive stalling and failure to produce any documents has necessitated this motion.

### **III. JURISDICTION**

Bel Power brings this motion pursuant to the Federal Rule of Civil Procedure 45. Under Fed. R. Civ. P. 45(d)(2)(B), if an objection is made by the third-party recipient of a subpoena, “the serving party may move the court for the district where compliance is required for an order compelling production or inspection.” Bel Power set the place of compliance for the Subpoena as

1 San Jose, California—in this District. (Ex. A.) NVIDIA objected to the Subpoena in its November  
 2 29, 2022 responses (Ex. F.) Because NVIDIA has refused to produce any of the requested  
 3 information, an order compelling the same is necessary, and this Court has jurisdiction to do so  
 4 under Fed. R. Civ. P. 45(d)(2)(B).

5 **IV. DIVISIONAL ASSIGNMENT**

6 Pursuant L.R. 3-2(c), this case should be assigned to the Division serving the county in  
 7 which the action arises. Here, the action arises at the Subpoena's location of compliance because  
 8 that is where the omissions giving rise to this dispute occurred. The location of compliance of the  
 9 Subpoena is San Jose, California, which is in Santa Clara County. (Ex. A.) Under L.R. 3-2(e), civil  
 10 actions that arise in Santa Clara County shall be assigned to the San Jose Division.

11 **V. ARGUMENT**

12 Federal Rule of Civil Procedure 45 governs the process of seeking discovery from third  
 13 parties by subpoena. Fed. R. Civ. P. 45. The Rule permits a party to seek from a third party  
 14 production of documents. Fed. R. Civ. P. 45(a)(1)(A). “[T]he scope of discovery through a  
 15 subpoena is the same as that applicable to Rule 34 and the other discovery rules.” Fed. R. Civ. P.  
 16 45, advisory committee notes (1970). Pursuant to Fed. R. Civ. P. 34—the rule governing the  
 17 production of documents between parties—the proper scope is that specified in Fed. R. Civ. P. 26.  
 18 Fed. R. Civ. P. 26 generally permits discovery regarding “any nonprivileged matter that is relevant  
 19 to any party’s claim or defense and proportional to the needs of the case.” Fed. R. Civ. P. 26(b)(1).

20 **A. The Information Sought from NVIDIA is Relevant to Indirect Infringement  
 21 Committed by MPS**

22 The patent laws in this country make clear that “[w]hoever actively induces infringement of  
 23 a patent shall be liable as an infringer.” 35 U.S.C. § 271(b). To prove its induced infringement  
 24 claims, Bel Power must present evidence showing that (1) a third party directly infringed its patents,  
 25 (2) MPS induced those infringing acts, and (3) MPS knew the acts it induced would constitute  
 26 infringement. *Power Integrations, Inc. v. Fairchild Semiconductor International, Inc.*, 843 F.3d  
 27 1315, 1332 (Fed. Cir. 2016). The information Bel Power seeks from NVIDIA is unequivocally  
 28 relevant to each of these issues because it allows Bel Power to establish underlying direct

1 infringement resulting from the sale, offer for sale, and/or importation of NVIDIA products  
 2 containing MPS Infringing Products in the United States. The volumes, prices, and other  
 3 information sought is further relevant to Bel Power's claim for damages against MPS in connection  
 4 with its efforts to induce infringement.

5 NVIDIA does not dispute that it purchases MPS Infringing Products. Nor does NVIDIA  
 6 challenge that MPS Infringing Products have been incorporated into NVIDIA products that were  
 7 sold, offered for sale, and/or imported into the United States. The NVIDIA RTX 3080 Power  
 8 System is a prime example of a NVIDIA product that incorporates MPS Infringing Products and is  
 9 imported, sold, and offered for sale in the United States. NVIDIA also does not dispute that, if an  
 10 NVIDIA product that incorporates an MPS Infringing Product is imported, sold, or offered for sale  
 11 in the United States, such importation, sale, or offer for sale would be an act of direct infringement.  
 12 As such, NVIDIA cannot credibly dispute that the information sought by Bel Power—the MPS  
 13 Infringing Products purchased by NVIDIA, the NVIDIA products that incorporate those MPS  
 14 Infringing Products, and the quantity of NVIDIA products imported, sold, or offered for sale in the  
 15 US—is directly relevant to Bel Power's inducement claims.

16           **B.     NVIDIA's Objections to the Subpoena are Non-Substantive Boilerplate**

17 Notwithstanding the relevance to Bel Power's inducement claims, and NVIDIA's failure to  
 18 dispute the same, NVIDIA's objections rely instead on simple, cut-and-paste, non-substantive  
 19 boilerplate. (*See generally* Ex. F.) As just one boilerplate objection, NVIDIA alleges *ad nauseum*  
 20 that the requests and deposition topics are “vague, ambiguous, unduly burdensome, and irrelevant.”  
 21 As a preliminary matter, Bel Power's Final Infringement Contentions were served in July 2022, at  
 22 the beginning of fact discovery—before MPS produced any non-public discovery that could allow  
 23 Bel Power to identify NVIDIA (or any other end customer of MPS) as having information relevant  
 24 to MPS's efforts to induce infringement of the Patents-in-Suit. To argue against “relevance,” based  
 25 on what Bel Power possibly could have known, without the benefit of necessary and pertinent  
 26 discovery from MPS, is contrary to the core purposes of discovery under the Federal Rules. In short,  
 27 objecting on the grounds of relevance is—like the other boilerplate objections are—nonsensical.

28

### C. NVIDIA is the Appropriate Source of the Information Bel Power Seeks

Evidence of the underlying direct infringement to support Bel Power’s inducement claims, and the magnitude of activity to support a damages calculation, is appropriate to seek from NVIDIA. While Bel Power diligently sought as much of the pertinent information from MPS in the Texas Litigation—including identification of end customers, MPS products that have “design wins” with such customers, and quantities of MPS products sold for incorporation into end customer products—the court in that action has instructed Bel Power to seek such information directly from third parties, including NVIDIA. But, even if the Texas Litigation court had compelled MPS to produce such information, at least some of the requested information is likely only available from third parties. For example, NVIDIA is in the best position to identify which of its products incorporate MPS Infringing Products, the number of MPS Infringing Products purchased (which may have been purchased indirectly from MPS distributors), and the volume of importation and sales of such products into and in the United States.

14 By narrowing the scope of the requested information, and seeking it from NVIDIA only  
15 after instruction from the court in the Texas Litigation, Bel Power has done everything possible to  
16 minimize any potential burden on NVIDIA to produce responsive information. The information  
17 sought is not only relevant, it is also material to Bel Power’s infringement claims. As important,  
18 NVIDIA does not dispute that it possesses such information. Accordingly, NVIDIA is an  
19 appropriate entity from which Bel Power is seeking discoverable information.

20 | VI. CONCLUSION

21 For the foregoing reasons, Bel Power respectfully requests that this Court enter an order  
22 compelling NVIDIA to produce the documents requested by Bel Power in the Subpoena and make  
23 a corporate witness available for deposition testimony.

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